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April 24, 2008

Nancy M. Morris, Secretary
Securities and Exchange Commission
100 F Street, N.E.
Washington D.C. 20549-1090

Re: SR-FINRA-2008-010

To Whom It May Concern:

I am writing in response to the SEC's solicitation of comments on FINRA's proposed Rule 12805 of the Customer Code relating to procedures for arbitrators to follow when considering requests for expungement relief, as set forth in Release 34-57572. I am a law professor who has written extensively on SRO securities arbitration and who is a FINRA arbitrator. While implementation of the procedures and safeguards set forth in the proposed Rule would work an improvement over the current system, I do not believe that arbitration panels should play a significant role in determining whether customers' complaints are deleted from a broker's public record. The regulators responsible for maintaining the CRD should have the full authority with respect to expungement.

The Central Registration Depository ("CRD"), the securities industry online registration and licensing database, maintains the qualification, employment and disclosure histories of more than 500,000 registered brokers.¹ Developed by NASAA and NASD and implemented in 1981, the CRD is considered one of the best licensing systems in existence.² Investors can research brokers' records through the FINRA BrokerCheck, a free online tool. Indeed, FINRA advises investors that BrokerCheck "should be the first resource [they] turn to when choosing whether to do business with a particular broker or brokerage firm."³

Accurate and complete information is the CRD's essential characteristic. To permit expungement of information about customers' complaints from the CRD is to allow the deletion of a historical fact; accordingly, expungement should be granted sparingly and only for demonstrated good cause. NASD first proposed, and the SEC approved, procedures for expungement in 2003⁴ because they determined that additional safeguards were necessary to

¹ Central Registration Depository, <http://www.finra.org/RegulatorySystems/CRD/index.htm>.

² CRD at a Glance, http://www.nasaa.org/industry_regulatory_resources/CRD_IARD/.

³ Check the Background of Your Investment Professional,

<http://www.finra.org/InvestorInformation/InvestorProtection/ChecktheBackgroundofYourInvestmentProfessional/index.htm>.

⁴ Securities Exchange Act Release No. 48933 (December 16, 2003), 68 FR 74667 (December 24, 2003).

